

Senate Study Bill 3164

SENATE/HOUSE FILE _____
BY (RECOMMENDED BY FREEDOM OF
INFORMATION, OPEN MEETINGS,
AND PUBLIC RECORDS INTERIM
STUDY COMMITTEE)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to open records and public meetings and providing
2 an effective date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 1 Section 1. Section 8E.202, subsection 1, unnumbered
1 2 paragraph 1, Code 2007, is amended to read as follows:
1 3 The department and each agency shall provide for the widest
1 4 possible dissemination of information between agencies and the
1 5 public relating to the enterprise strategic plan and agency
1 6 strategic plans, including but not limited to internet access.
1 7 This section does not require the department or an agency to
1 8 release information which is classified as a confidential
1 9 record under this Code, ~~including but not limited to section~~
1 10 ~~22.7.~~
1 11 Sec. 2. Section 8E.202, subsection 3, Code 2007, is
1 12 amended to read as follows:
1 13 3. A record which is confidential under this Code,
1 14 ~~including but not limited to section 22.7,~~ shall not be
1 15 released to the public under this section.
1 16 Sec. 3. Section 8A.341, subsection 2, Code 2007, is
1 17 amended to read as follows:
1 18 2. If money is appropriated for this purpose, by November
1 19 1 of each year supply a report which contains the name,
1 20 gender, county, or city of residence when possible, official
1 21 title, salary received during the previous fiscal year, base
1 22 salary as computed on July 1 of the current fiscal year, and
1 23 traveling and subsistence expense of the personnel of each of
1 24 the departments, boards, and commissions of the state
1 25 government except personnel who receive an annual salary of
1 26 less than one thousand dollars. The number of the personnel
1 27 and the total amount received by them shall be shown for each
1 28 department in the report. All employees who have drawn
1 29 salaries, fees, or expense allowances from more than one
1 30 department or subdivision shall be listed separately under the
1 31 proper departmental heading. On the request of the director,
1 32 the head of each department, board, or commission shall
1 33 furnish the data covering that agency. The report shall be
1 34 distributed upon request without charge in an electronic
1 35 medium to each caucus of the general assembly, the legislative
2 1 services agency, the chief clerk of the house of
2 2 representatives, and the secretary of the senate. Copies of
2 3 the report shall be made available to other persons in an
2 4 electronic medium upon payment of a fee, which shall not
2 5 exceed the cost of providing the copy of the report. Sections
2 6 22.2 through ~~22.6~~ 22.5 apply to the report. All funds from
2 7 the sale of the report shall be deposited in the printing
2 8 revolving fund established in section 8A.345.
2 9 Sec. 4. Section 10B.5, subsection 2, Code 2007, is amended
2 10 to read as follows:
2 11 2. Information provided in reports required in this
2 12 chapter is ~~a confidential~~ an optional public record as
2 13 provided in section 22.7. The attorney general may have
2 14 access to the reports, and may use information in the reports
2 15 in any action to enforce state law, including but not limited
2 16 to chapters 9H, 9I, and 10C. The reports shall be made
2 17 available to members of the general assembly and appropriate

2 18 committees of the general assembly in order to determine the
2 19 extent that agricultural land is held in this state by
2 20 corporations and other business and foreign entities and the
2 21 effect of such land ownership upon the economy of this state.
2 22 The secretary of state shall assist any committee of the
2 23 general assembly studying these issues.

2 24 Sec. 5. Section 21.2, subsection 2, Code 2007, is amended
2 25 to read as follows:

2 26 2. a. "Meeting" means a gathering in person or by
2 27 electronic means, formal or informal, of a majority of the
2 28 members of a governmental body where there is deliberation or
2 29 action upon any matter within the scope of the governmental
2 30 body's policy-making duties. A "meeting" includes the
2 31 calculated use of a series of communications, each between
2 32 less than a majority of the members of a governmental body or
2 33 their personal intermediaries, that is intended to reach and
2 34 does in fact reach a majority of the members of the
2 35 governmental body and that is intended to discuss and develop
3 1 a collective final decision of a majority outside of a meeting
3 2 with respect to specific action to be taken by the majority at
3 3 a meeting.

3 4 b. Meetings shall A "meeting" does not include any of the
3 5 following:

3 6 (1) A gathering of members of a governmental body for
3 7 purely ministerial or social purposes when there is no
3 8 discussion of policy or no intent to avoid the purposes of
3 9 this chapter.

3 10 (2) Written electronic communications by one or more
3 11 members of a governmental body or by its chief executive
3 12 officer that are ordinarily preserved and are accessible and
3 13 that are sent to a majority of the members of the governmental
3 14 body, or a series of such written electronic communications
3 15 each sent only to a minority of the members of the
3 16 governmental body but that in the aggregate are sent to a
3 17 majority of its members that do both of the following:

3 18 (a) Concern a particular matter within the scope of the
3 19 governmental body's policy-making duties.

3 20 (b) Would otherwise constitute a meeting.
3 21 However, this exclusion only applies if the written
3 22 electronic communications, to the extent such communications
3 23 are not exempt from disclosure pursuant to section 22.7 or
3 24 another statute, are either posted on the governmental body's
3 25 internet site or public bulletin board or copies are made
3 26 available for public inspection at the governmental body's
3 27 next regular meeting.

3 28 Sec. 6. Section 21.4, subsections 1 and 3, Code 2007, are
3 29 amended to read as follows:

3 30 1. ~~A~~ Except as provided in subsection 3, a governmental
3 31 body, except township trustees, shall give notice of the time,
3 32 date, and place of each meeting including a reconvened meeting
3 33 of the governmental body, and its tentative agenda of the
3 34 meeting, in a manner reasonably calculated to apprise the
3 35 public of that information. Reasonable notice shall include
4 1 advising the news media who have filed a request for notice
4 2 with the governmental body and posting the notice on a
4 3 bulletin board or other prominent place which is easily
4 4 accessible to the public and clearly designated for that
4 5 purpose at the principal office of the body holding the
4 6 meeting, or if no such office exists, at the building in which
4 7 the meeting is to be held.

4 8 3. Subsection 1 does not apply to any of the following:

4 9 a. A meeting reconvened within four hours of the start of
4 10 its recess, where an announcement of the time, date, and place
4 11 of the reconvened meeting is made at the original meeting in
4 12 open session and recorded in the minutes of the meeting and
4 13 there is no change in the agenda.

4 14 b. A meeting held by a formally constituted subunit of a
4 15 parent governmental body may conduct a meeting without notice
4 16 as required by this section during a lawful meeting of the
4 17 parent governmental body, or during a recess in that meeting
4 18 of up to four hours, or a meeting of that subunit immediately
4 19 following that the meeting of the parent governmental body, if
4 20 the meeting of the that subunit is publicly announced in open
4 21 session at the parent meeting and the subject of the meeting
4 22 reasonably coincides with the subjects discussed or acted upon
4 23 by the parent governmental body.

4 24 Sec. 7. Section 21.5, subsection 1, paragraph k, Code
4 25 Supplement 2007, is amended to read as follows:

4 26 k. To discuss information contained in records in the
4 27 custody of a governmental body that are ~~confidential~~ optional
4 28 public records pursuant to section 22.7, subsection 50.

4 29 Sec. 8. Section 21.5, subsection 4, Code Supplement 2007,
4 30 is amended to read as follows:

4 31 4. A governmental body shall keep detailed minutes of all
4 32 discussion, persons present, and action occurring at a closed
4 33 session, and shall also tape record all of the closed session.
4 34 The detailed minutes and tape recording of a closed session
4 35 shall be sealed and shall not be public records open to public
5 1 inspection. However, upon order of the court in an action to
5 2 enforce this chapter, the detailed minutes and tape recording
5 3 shall be unsealed and examined by the court in camera. The
5 4 court shall then determine what part, if any, of the minutes
5 5 should be disclosed to the party seeking enforcement of this
5 6 chapter for use in that enforcement proceeding. In
5 7 determining whether any portion of the minutes or recording
5 8 shall be disclosed to such a party for this purpose, the court
5 9 shall weigh the prejudicial effects to the public interest of
5 10 the disclosure of any portion of the minutes or recording in
5 11 question, against its probative value as evidence in an
5 12 enforcement proceeding. After such a determination, the court
5 13 may permit inspection and use of all or portions of the
5 14 detailed minutes and tape recording by the party seeking
5 15 enforcement of this chapter. A governmental body shall keep
5 16 the detailed minutes and tape recording of any closed session
5 17 for a period of at least one year from the date of that
5 18 meeting, except as otherwise required by law.

5 19 Sec. 9. Section 21.6, subsection 3, paragraph a, Code
5 20 2007, is amended to read as follows:

5 21 a. Shall assess each member of the governmental body who
5 22 participated in its violation damages in the amount of not
5 23 more than two thousand five hundred dollars ~~nor and not less~~
5 24 than one ~~hundred thousand~~ thousand dollars. These damages shall be
5 25 paid by the court imposing it to the state of Iowa, if the
5 26 body in question is a state governmental body, or to the local
5 27 government involved if the body in question is a local
5 28 governmental body. A member of a governmental body found to
5 29 have violated this chapter shall not be assessed such damages
5 30 if that member proves that the member did any of the
5 31 following:

5 32 (1) Voted against the closed session.

5 33 (2) Had good reason to believe and in good faith believed
5 34 facts which, if true, would have indicated compliance with all
5 35 the requirements of this chapter.

6 1 (3) Reasonably relied upon a decision of a court or a
6 2 formal opinion of the Iowa public information board, the
6 3 attorney general, or the attorney for the governmental body.

6 4 Sec. 10. Section 22.1, Code 2007, is amended to read as
6 5 follows:

6 6 22.1 DEFINITIONS.

6 7 1. "Confidential record" means a government record
6 8 designated by statute as unavailable for examination and
6 9 copying by members of the public.

6 10 2. The term "government body" means this
6 11 state, or any county, city, township, school corporation,
6 12 political subdivision, tax-supported district, nonprofit
6 13 corporation other than a fair conducting a fair event as
6 14 provided in chapter 174, whose facilities or indebtedness are
6 15 supported in whole or in part with property tax revenue and
6 16 which is licensed to conduct pari-mutuel wagering pursuant to
6 17 chapter 99D, or other entity of this state, or any branch,
6 18 department, board, bureau, commission, council, committee,
6 19 official, or officer of any of the foregoing or any employee
6 20 delegated the responsibility for implementing the requirements
6 21 of this chapter.

6 22 3. "Government record" means a record owned by, created
6 23 by, in the possession of, or under the control of, any unit,
6 24 division, or part of state or local government or the
6 25 officials or employees of such public bodies in the course of
6 26 the performance of their respective duties.

6 27 4. The term "lawful" "Lawful custodian" means the
6 28 government body currently in physical possession of the public
6 29 government record. The custodian of a public government
6 30 record in the physical possession of persons outside a
6 31 government body is the government body owning that government
6 32 record. The government records relating to the investment of
6 33 public funds are the property of the public body responsible
6 34 for the public funds. Each government body shall delegate to
6 35 particular officials or employees of that government body the
7 1 responsibility for implementing the requirements of this
7 2 chapter and shall publicly announce the particular officials
7 3 or employees to whom responsibility for implementing the
7 4 requirements of this chapter has been delegated. "Lawful

7 5 custodian" does not mean an automated data processing unit of
7 6 a public body if the data processing unit holds the government
7 7 records solely as the agent of another public body, nor does
7 8 it mean a unit which holds the government records of other
7 9 public bodies solely for storage.

~~7 10 3. As used in this chapter, "public records" includes all~~
~~7 11 records, documents, tape, or other information, stored or~~
~~7 12 preserved in any medium, of or belonging to this state or any~~
~~7 13 county, city, township, school corporation, political~~
~~7 14 subdivision, nonprofit corporation other than a fair~~
~~7 15 conducting a fair event as provided in chapter 174, whose~~
~~7 16 facilities or indebtedness are supported in whole or in part~~
~~7 17 with property tax revenue and which is licensed to conduct~~
~~7 18 pari-mutuel wagering pursuant to chapter 99D, or tax-supported~~
~~7 19 district in this state, or any branch, department, board,~~
~~7 20 bureau, commission, council, or committee of any of the~~
~~7 21 foregoing.~~

~~7 22 "Public records" also includes all records relating to the~~
~~7 23 investment of public funds including but not limited to~~
~~7 24 investment policies, instructions, trading orders, or~~
~~7 25 contracts, whether in the custody of the public body~~
~~7 26 responsible for the public funds or a fiduciary or other third~~
~~7 27 party.~~

7 28 5. "Optional public record" means a government record
7 29 designated by statute as unavailable for examination and
7 30 copying by members of the public unless otherwise ordered by a
7 31 court, by the lawful custodian of the records, or by another
7 32 person duly authorized to release such information.

7 33 6. "Public record" means a government record to which
7 34 members of the public have an unqualified right to examine and
7 35 copy and includes a government record not designated by
8 1 statute as either a confidential record or an optional public
8 2 record.

8 3 7. "Record" means information of every kind, nature, and
8 4 form preserved or stored in any medium including but not
8 5 limited to paper, electronic media, or film media.

8 6 Sec. 11. Section 22.2, subsection 2, Code 2007, is amended
8 7 to read as follows:

8 8 2. A government body shall not prevent the examination or
8 9 copying of a public record by contracting with a nongovernment
8 10 body to perform any of its duties or functions. A record
8 11 created by, in the possession of, or under the control of, any
8 12 nongovernment body or person, which is a direct part of the
8 13 execution or performance of duties imposed upon the
8 14 nongovernment body or person by contract with a government
8 15 body under which the nongovernment body or person performs a
8 16 function of the government body, is a government record. The
8 17 lawful custodian of such a government record is the government
8 18 body with whom the nongovernment body or person has executed
8 19 the contract.

8 20 Sec. 12. NEW SECTION. 22.2A RECORD REQUESTS == TIME
8 21 LIMITS.

8 22 1. Upon receipt of an oral or written request to examine
8 23 or copy a public record, the lawful custodian shall, if
8 24 feasible in the ordinary course of business, permit such
8 25 examination or copying at the time of the request. If it is
8 26 not feasible in the ordinary course of business to permit
8 27 examination or copying of the public record at the time of the
8 28 request, the lawful custodian shall immediately notify the
8 29 requester, orally or in writing, when such examination or
8 30 copying may take place, which shall be no later than five
8 31 business days from the time of the request unless there is
8 32 good cause for further delay. If further delay is necessary
8 33 because of good cause, the lawful custodian shall provide the
8 34 requester with a written statement detailing the reason or
8 35 reasons for the delay and the date by which the request will
9 1 be satisfied.

9 2 2. If the lawful custodian is in doubt as to whether the
9 3 record requested is a public record or whether the requester
9 4 should be permitted to examine or copy an optional public
9 5 record specified in section 22.7, the lawful custodian shall
9 6 make that determination within ten business days from the date
9 7 of the request. Examination or copying of the government
9 8 record must be allowed within five business days from the date
9 9 the lawful custodian makes the decision in such circumstances
9 10 to permit examination or copying of the record.

9 11 3. If the lawful custodian denies a request to examine or
9 12 copy a public record, the custodian must provide the requester
9 13 at the time of the denial a written statement denying the
9 14 request and detailing the specific reason or reasons for the
9 15 denial.

9 16 4. If the lawful custodian does not fulfill a request to
9 17 examine or copy a public record within the times prescribed in
9 18 this section, the request shall be deemed denied and the
9 19 requester shall be entitled to file a complaint with the Iowa
9 20 public information board pursuant to section 23.7 or file a
9 21 lawsuit against the lawful custodian pursuant to section
9 22 22.10.

9 23 Sec. 13. Section 22.4, Code 2007, is amended to read as
9 24 follows:

9 25 22.4 HOURS WHEN AVAILABLE.

9 26 The rights of persons under this chapter may be exercised
9 27 at any time during the customary office hours of the lawful
9 28 custodian of the government records. However, if the lawful
9 29 custodian does not have customary office hours of at least
9 30 thirty hours per week, such right may be exercised at any time
9 31 from nine o'clock a.m. to noon and from one o'clock p.m. to
9 32 four o'clock p.m. Monday through Friday, excluding legal
9 33 holidays, unless the person exercising such right and the
9 34 lawful custodian agree on a different time.

9 35 Sec. 14. Section 22.7, subsection 10, Code Supplement
10 1 2007, is amended by striking the subsection.

10 2 Sec. 15. Section 22.7, subsection 11, Code Supplement
10 3 2007, is amended to read as follows:

10 4 11. Personal information in confidential personnel records
10 5 of public government bodies including but not limited to
~~10 6 cities, boards of supervisors and school districts relating to~~
~~10 7 identified or identifiable individuals who are officials,~~
~~10 8 officers, or employees of the government bodies. However, the~~
~~10 9 following information relating to such individuals contained~~
~~10 10 in personnel records shall be public records:~~

10 11 a. The name and compensation of the individual. For
10 12 purposes of this paragraph, "compensation" means the same as
10 13 defined in section 8F.2.

10 14 b. The date the individual was employed by the government
10 15 body.

10 16 c. The positions the individual holds or has held with the
10 17 government body.

10 18 d. The individual's qualifications for the position that
10 19 the individual holds or has held including but not limited to
10 20 educational background and work experience.

10 21 e. Any final disciplinary action taken against the
10 22 individual that resulted in the individual's discharge,
10 23 suspension, demotion, or loss of pay.

10 24 Sec. 16. Section 22.7, subsection 13, Code Supplement
10 25 2007, is amended to read as follows:

10 26 13. The records of a library which, by themselves or when
10 27 examined with other public records, would reveal the identity
10 28 of the library patron checking out or requesting an item or
10 29 information from the library. The records shall be released
10 30 to a criminal or juvenile justice agency only pursuant to an
10 31 investigation of a particular person or organization suspected
10 32 of committing a known crime. The records shall be released
10 33 only upon a judicial determination that a rational connection
10 34 exists between the requested release of information and a
10 35 legitimate end and that the need for the information is cogent
11 1 and compelling. This subsection shall not be construed to
11 2 prohibit a library from disclosing to an identified parent or
11 3 guardian information regarding the items borrowed or requested
11 4 by an identified library patron who is the minor child of the
11 5 parent or guardian.

11 6 Sec. 17. Section 22.7, subsection 18, Code Supplement
11 7 2007, is amended to read as follows:

11 8 18. a. Communications not required by law, rule,
11 9 procedure, or contract that are made to a government body or
11 10 to any of its employees by identified persons outside of
11 11 government, to the extent that the government body receiving
11 12 those communications from such persons outside of government
11 13 could reasonably believe that those persons would be
11 14 discouraged from making them to that government body if they
11 15 were available for general public examination. As used in
11 16 this subsection, "persons outside of government" does not
11 17 include persons or employees of persons who are communicating
11 18 with respect to a consulting or contractual relationship with
11 19 a government body or who are communicating with a government
11 20 body with whom an arrangement for compensation exists.

11 21 Notwithstanding this provision:

11 22 ~~a.~~ (1) The communication is a public record to the extent
11 23 that the person outside of government making that
11 24 communication consents to its treatment as a public record.

11 25 ~~b.~~ (2) Information contained in the communication is a
11 26 public record to the extent that it can be disclosed without

11 27 directly or indirectly indicating the identity of the person
11 28 outside of government making it or enabling others to
11 29 ascertain the identity of that person.
11 30 ~~e. (3) Information contained in the communication is a~~
11 31 ~~public record to the extent that it indicates the date, time,~~
11 32 ~~specific location, and immediate facts and circumstances~~
11 33 ~~surrounding the occurrence of a crime or other illegal act,~~
11 34 ~~except to the extent that its disclosure would plainly and~~
11 35 ~~seriously jeopardize a continuing investigation or pose a~~
12 1 ~~clear and present danger to the safety of any person. In any~~
12 2 ~~action challenging the failure of the lawful custodian to~~
12 3 ~~disclose any particular information of the kind enumerated in~~
12 4 ~~this paragraph, the burden of proof is on the lawful custodian~~
12 5 ~~to demonstrate that the disclosure of that information would~~
12 6 ~~jeopardize such an investigation or would pose such a clear~~
12 7 ~~and present danger.~~

12 8 b. This subsection does not apply to information relating
12 9 to applications to a government body for employment.

12 10 Sec. 18. Section 22.7, subsection 52, paragraphs a and c,
12 11 Code Supplement 2007, are amended to read as follows:

12 12 a. The following records relating to a charitable donation
12 13 ~~made to a foundation acting solely for the support of an~~
12 14 ~~institution governed by the state board of regents, to a~~
12 15 ~~foundation acting solely for the support of an institution~~
12 16 ~~governed by chapter 260C, to a private foundation as defined~~
12 17 ~~in section 509 of the Internal Revenue Code organized for the~~
12 18 ~~support of a government body, or to an endow Iowa qualified~~
12 19 ~~community foundation, as defined in section 15E.303, organized~~
12 20 ~~for the support of a government body:~~

12 21 (1) Portions of records that disclose a donor's or
12 22 prospective donor's personal, financial, estate planning, or
12 23 gift planning matters.

12 24 (2) Records received from a donor or prospective donor
12 25 regarding such donor's prospective gift or pledge.

12 26 (3) Records containing information about a donor or a
12 27 prospective donor in regard to the appropriateness of the
12 28 solicitation and dollar amount of the gift or pledge.

12 29 (4) Portions of records that identify a prospective donor
12 30 and that provide information on the appropriateness of the
12 31 solicitation, the form of the gift or dollar amount requested
12 32 by the solicitor, and the name of the solicitor.

12 33 (5) Portions of records disclosing the identity of a donor
12 34 or prospective donor, including the specific form of gift or
12 35 pledge that could identify a donor or prospective donor,
13 1 directly or indirectly, when such donor has requested
13 2 anonymity in connection with the gift or pledge. This
13 3 subparagraph does not apply to a gift or pledge from a
13 4 publicly held business corporation.

13 5 c. Except as provided in paragraphs "a" and "b", portions
13 6 of records relating to the receipt, holding, and disbursement
13 7 of gifts made for the benefit of regents institutions and made
13 8 through foundations established for support of regents
13 9 institutions, including but not limited to written
13 10 fund-raising policies and documents evidencing fund-raising
13 11 practices, shall be subject to this chapter. Unless otherwise
13 12 provided, the lawful custodian of all records subject to this
13 13 paragraph is the regents institution to be benefited by such
13 14 gifts.

13 15 Sec. 19. Section 22.7, Code Supplement 2007, is amended by
13 16 adding the following new subsections:

13 17 NEW SUBSECTION. 60. PUBLIC EMPLOYMENT APPLICATIONS.

13 18 a. The identity and qualifications of an applicant for
13 19 employment by a government body if the applicant requests
13 20 anonymity in writing and the government body determines that
13 21 anonymity is necessary to induce the applicant to apply for
13 22 the employment position. Such information shall be exempt
13 23 from disclosure until an applicant is considered by the
13 24 government body to be a finalist for the position. For
13 25 purposes of this subsection, "finalist" means any applicant
13 26 who is determined to be among those who are under final
13 27 consideration for the position, and at least includes the five
13 28 most qualified applicants as determined by the recommending or
13 29 selecting authority. If there are five or fewer applicants
13 30 for the particular position, all of the applicants shall be
13 31 considered finalists for purposes of this subsection. The
13 32 identities and qualifications of the finalists shall be made
13 33 available for public inspection at least three business days
13 34 prior to a final decision.

13 35 b. Documents relating to a government body's evaluation of
14 1 the qualifications and merits of an applicant for employment
14 2 by that government body.

14 3 NEW SUBSECTION. 61. INFORMATION INVADING PERSONAL
14 4 PRIVACY.

14 5 a. Information about and linked to an identified or
14 6 identifiable person that, if disclosed to the general public,
14 7 would constitute an unwarranted or undue invasion of personal
14 8 privacy or that would present a clear and serious danger of
14 9 facilitating identity theft or other criminal activity in
14 10 relation to that person. For purposes of this subsection,
14 11 "unwarranted or undue invasion of personal privacy" means the
14 12 public disclosure of particular information about and linked
14 13 to an identified or identifiable person that is likely to
14 14 subject such person to potential harm of such person's
14 15 personal privacy interests or personal security interests that
14 16 clearly outweighs any potential benefit to the public interest
14 17 from disclosure of such information. Information about and
14 18 linked to an identified or identifiable person excluded from
14 19 public inspection by this paragraph includes but is not
14 20 limited to social security numbers, driver's license numbers,
14 21 credit card and bank account numbers, and personal financial
14 22 data other than the salary and benefits of a public official
14 23 or employee and any financial statements required to be filed
14 24 by a public official or public employee to avoid a conflict of
14 25 interest.

14 26 b. Information exempted from public disclosure by this
14 27 subsection does not include information about and linked to an
14 28 identified or identifiable person released by the lawful
14 29 custodian with the person's written consent or information
14 30 relating to the execution of duties by a public official or
14 31 public employee.

14 32 NEW SUBSECTION. 62. TENTATIVE, PRELIMINARY, OR DRAFT
14 33 MATERIALS. Tentative, preliminary, draft, speculative, or
14 34 research material, created prior to its final completion for
14 35 the purpose for which it is intended and in a form prior to
15 1 the form in which it is submitted for use in the final
15 2 formulation, recommendation, adoption, or execution of any
15 3 official policy or action by a public official authorized to
15 4 make such decisions for the government body. Such materials
15 5 shall be treated as a public record at the time the materials
15 6 are actually used for the final formulation, recommendation,
15 7 adoption, or execution of any official policy or action of a
15 8 government body.

15 9 NEW SUBSECTION. 63. CLOSED SESSION RECORDS. Records
15 10 containing information that would permit a governmental body
15 11 subject to chapter 21 to hold a closed session pursuant to
15 12 section 21.5 in order to avoid public disclosure of that
15 13 information.

15 14 Sec. 20. Section 22.8, subsection 1, Code 2007, is amended
15 15 to read as follows:

15 16 1. The district court may grant an injunction restraining
15 17 the examination, including copying, of a specific public
15 18 record or a narrowly drawn class of public records. A hearing
15 19 shall be held on a request for injunction upon reasonable
15 20 notice as determined by the court to persons requesting access
15 21 to the record which is the subject of the request for
15 22 injunction. It shall be the duty of the lawful custodian and
15 23 any other person seeking an injunction to ensure compliance
15 24 with the notice requirement. Such an injunction may be issued
15 25 only if the petition supported by affidavit shows and if the
15 26 court finds both any of the following:

15 27 a. That the examination would clearly not be in the public
15 28 interest because the potential harm to the public interest
15 29 from disclosure of the particular information involved clearly
15 30 outweighs any potential benefit to the public interest from
15 31 disclosure.

15 32 b. That the examination would substantially and
15 33 irreparably injure any person or persons because it would
15 34 invade the personal privacy of the identified subject of the
15 35 record and the harm to that person from such disclosure is not
16 1 outweighed by the public interest in its disclosure.

16 2 c. That the record at issue is not a public record.

16 3 d. That the record at issue is a record exempt from
16 4 mandatory disclosure pursuant to section 22.7 and that a
16 5 determination by the custodian to permit inspection of the
16 6 record by one or more members of the public is a violation of
16 7 law or is arbitrary, capricious, unreasonable, or an abuse of
16 8 discretion.

16 9 Sec. 21. Section 22.8, subsection 4, paragraphs c and d,
16 10 Code 2007, are amended to read as follows:

16 11 c. To determine whether the government record in question
16 12 is a public record, an optional public record, or a
16 13 confidential record.

16 14 d. To determine whether ~~a confidential~~ an optional public
16 15 record should be available for inspection and copying to the
16 16 person requesting the right to do so. A reasonable delay for
16 17 this purpose shall not exceed ~~twenty calendar days and~~
~~ordinarily should not exceed~~ ten business days.

16 19 Sec. 22. Section 22.10, subsection 3, paragraph b, Code
16 20 2007, is amended to read as follows:

16 21 b. Shall assess the persons who participated in its
16 22 violation damages in the amount of not more than two thousand
16 23 five hundred dollars ~~nor and not~~ less than one ~~hundred~~
16 24 thousand dollars. These damages shall be paid by the court
16 25 imposing them to the state of Iowa if the body in question is
16 26 a state government body, or to the local government involved
16 27 if the body in question is a local government body. A person
16 28 found to have violated this chapter shall not be assessed such
16 29 damages if that person proves that the person ~~either voted did~~
16 30 any of the following:

16 31 (1) Voted against the action violating this chapter,
16 32 refused to participate in the action violating this chapter,
16 33 or engaged in reasonable efforts under the circumstances to
16 34 resist or prevent the action in violation of this chapter+
16 35 had.

17 1 (2) Had good reason to believe and in good faith believed
17 2 facts which, if true, would have indicated compliance with the
17 3 requirements of this chapter+ ~~or reasonably.~~

17 4 (3) Reasonably relied upon a decision of a court or an
17 5 opinion of the Iowa public information board, the attorney
17 6 general, or the attorney for the government body.

17 7 Sec. 23. Section 22.10, subsection 5, Code 2007, is
17 8 amended by striking the subsection.

17 9 Sec. 24. Section 22.13, Code 2007, is amended to read as
17 10 follows:

17 11 22.13 SETTLEMENTS == ~~GOVERNMENTAL~~ GOVERNMENT BODIES.

17 12 1. A written summary of the terms of settlement, including
17 13 amounts of payments made to or through a claimant, or other
17 14 disposition of any claim for damages made against a
17 15 ~~governmental~~ government body or against an employee, officer,
17 16 or agent of a ~~governmental~~ government body, by an insurer
17 17 pursuant to a contract of liability insurance issued to the
17 18 ~~governmental~~ government body, shall be filed with the
17 19 ~~governmental~~ government body and shall be a public record.

17 20 2. A final binding settlement agreement between any
17 21 government body of this state or unit or official of such a
17 22 government body that resolves a legal dispute between such a
17 23 government body and another person or entity shall include a
17 24 brief summary indicating the identity of the parties involved,
17 25 the nature of the dispute, any underlying relevant facts that
17 26 are agreed to by the parties and that are disputed by the
17 27 parties, and the terms of the settlement, and shall be filed
17 28 with the government body and shall be available for public
17 29 inspection.

17 30 Sec. 25. Section 22.14, subsection 3, Code 2007, is
17 31 amended to read as follows:

17 32 3. If a fiduciary or other third party with custody of
17 33 public investment transactions records fails to produce public
17 34 records within a reasonable period of time as requested by the
17 35 ~~public~~ government body, the ~~public~~ government body shall make
18 1 no new investments with or through the fiduciary or other
18 2 third party and shall not renew existing investments upon
18 3 their maturity with or through the fiduciary or other third
18 4 party. The fiduciary or other third party shall be liable for
18 5 the penalties imposed under ~~section 22.6 statute, common law,~~
18 6 ~~or contract~~ due to the acts or omissions of the fiduciary or
18 7 other third party ~~and any other remedies available under~~
18 8 ~~statute, common law, or contract.~~

18 9 Sec. 26. NEW SECTION. 23.1 CITATION AND PURPOSE.

18 10 This chapter may be cited as the "Iowa Public Information
18 11 Board Act". The purpose of this chapter is to provide an
18 12 alternative means by which to secure compliance with and
18 13 enforcement of the requirements of chapters 21 and 22.

18 14 Sec. 27. NEW SECTION. 23.2 DEFINITIONS.

18 15 1. "Board" means the Iowa public information board created
18 16 in section 23.3.

18 17 2. "Complainant" means a person who files a complaint with
18 18 the board.

18 19 3. "Complaint" means a written and signed document filed
18 20 with the board alleging a violation of chapter 21 or 22.

18 21 4. "Custodian" means a government body, government
18 22 official, or government employee designated as the lawful
18 23 custodian of a government record pursuant to section 22.1.

18 24 5. "Government body" means the same as defined in section

18 25 22.1.
18 26 6. "Person" means an individual, partnership, association,
18 27 corporation, legal representative, trustee, receiver,
18 28 custodian, government body, or official, employee, agency, or
18 29 political subdivision of this state.
18 30 7. "Respondent" means any agency or other unit of state or
18 31 local government, custodian, government official, or
18 32 government employee who is the subject of a complaint.
18 33 Sec. 28. NEW SECTION. 23.3 BOARD APPOINTED.
18 34 1. An Iowa public information board is created consisting
18 35 of five members appointed by the governor, subject to
19 1 confirmation by the senate. Membership shall be balanced as
19 2 to political affiliation as provided in section 69.16 and
19 3 gender as provided in section 69.16A. Members appointed to
19 4 the board shall serve staggered, four-year terms, beginning
19 5 and ending as provided by section 69.19. A quorum shall
19 6 consist of three members.
19 7 2. A vacancy on the board shall be filled by the governor
19 8 by appointment for the unexpired part of the term. A board
19 9 member may be removed from office by the governor for good
19 10 cause. The board shall select one of its members to serve as
19 11 chair and shall employ a director who shall serve as the
19 12 executive officer of the board.
19 13 Sec. 29. NEW SECTION. 23.4 COMPENSATION AND EXPENSES.
19 14 Board members shall be paid a per diem as specified in
19 15 section 7E.6 and shall be reimbursed for actual and necessary
19 16 expenses incurred while on official board business. Per diem
19 17 and expenses shall be paid from funds appropriated to the
19 18 board.
19 19 Sec. 30. NEW SECTION. 23.5 ELECTION OF REMEDIES.
19 20 1. An aggrieved person, any taxpayer or citizen of this
19 21 state, the attorney general, or any county attorney may seek
19 22 enforcement of the requirements of chapters 21 and 22 by
19 23 electing either to file an action pursuant to section 17A.19,
19 24 21.6, or 22.10, whichever is applicable, or in the
19 25 alternative, to file a timely complaint with the board.
19 26 2. If more than one person seeks enforcement of chapter 21
19 27 or 22 with respect to the same incident involving an alleged
19 28 violation, and one or more of such persons elects to do so by
19 29 filing an action under section 17A.19, 21.6, or 22.10 and one
19 30 or more of such persons elects to do so by filing a timely
19 31 complaint with the board, the court in which the action was
19 32 filed shall dismiss the action without prejudice, authorizing
19 33 the complainant to file a complaint with respect to the same
19 34 incident with the board without regard to the timeliness of
19 35 the filing of the complaint at the time the action in court is
20 1 dismissed.
20 2 3. If a government body files an action pursuant to
20 3 section 22.8 seeking to enjoin the inspection of a public
20 4 record, the respondent may remove the proceeding to the board
20 5 for its determination by filing, within thirty days of the
20 6 commencement of the judicial proceeding, a complaint with the
20 7 board alleging a violation of chapter 22 in regard to the same
20 8 matter.
20 9 Sec. 31. NEW SECTION. 23.6 BOARD POWERS AND DUTIES.
20 10 The board shall have all of the following powers and
20 11 duties:
20 12 1. Employ such employees as are necessary to execute its
20 13 authority, including administrative law judges, and attorneys
20 14 to prosecute respondents in proceedings before the board and
20 15 to represent the board in proceedings before a court.
20 16 Notwithstanding section 8A.412, all of the board's employees,
20 17 except for the executive director and legal counsels, shall be
20 18 employed subject to the merit system provisions of chapter 8A,
20 19 subchapter IV.
20 20 2. Adopt rules with the force of law pursuant to chapter
20 21 17A calculated to implement, enforce, and interpret the
20 22 requirements of chapters 21 and 22 and to implement any
20 23 authority delegated to the board by this chapter.
20 24 3. Issue, consistent with the requirements of section
20 25 17A.9, declaratory orders with the force of law determining
20 26 the applicability of chapter 21 or 22 to specified fact
20 27 situations.
20 28 4. Receive complaints alleging violations of chapter 21 or
20 29 22, seek resolution of such complaints through mediation and
20 30 settlement, formally investigate such complaints, decide after
20 31 such an investigation whether there is probable cause to
20 32 believe a violation of chapter 21 or 22 has occurred, and if
20 33 probable cause has been found prosecute the respondent before
20 34 the board in a contested case proceeding conducted according
20 35 to the provisions of chapter 17A.

21 1 5. Issue subpoenas enforceable in court for the purpose of
21 2 investigating complaints and to facilitate the prosecution and
21 3 conduct of contested cases before the board.

21 4 6. After appropriate board proceedings, issue orders with
21 5 the force of law, determining whether there has been a
21 6 violation of chapter 21 or 22, requiring compliance with
21 7 specified provisions of those chapters, imposing civil
21 8 penalties equivalent to and to the same extent as those
21 9 provided for in section 21.6 or 22.10, as applicable, on a
21 10 respondent who has been found in violation of chapter 21 or
21 11 22, and imposing any other appropriate remedies calculated to
21 12 declare, terminate, or remediate any violation of those
21 13 chapters.

21 14 7. Represent itself in judicial proceedings to enforce or
21 15 defend its orders and rules through attorneys on its own
21 16 staff, through the office of the attorney general, or through
21 17 other attorneys retained by the board, at its option.

21 18 8. Make training opportunities available to lawful
21 19 custodians, government bodies, and other persons subject to
21 20 the requirements of chapters 21 and 22 and require, in its
21 21 discretion, appropriate persons who have responsibilities in
21 22 relation to chapters 21 and 22 to receive periodic training
21 23 approved by the board.

21 24 9. Disseminate information calculated to inform members of
21 25 the public about the public's right to access government
21 26 information in this state including procedures to facilitate
21 27 this access and including information relating to the
21 28 obligations of government bodies under chapter 21 and lawful
21 29 custodians under chapter 22 and other laws dealing with this
21 30 subject.

21 31 10. Prepare and transmit to the governor and to the
21 32 general assembly, at least annually, reports describing
21 33 complaints received, board proceedings, investigations,
21 34 hearings conducted, decisions rendered, and other work
21 35 performed by the board.

22 1 11. Make recommendations to the general assembly proposing
22 2 legislation relating to public access to government
22 3 information deemed desirable by the board in light of the
22 4 policy of this state to provide as much public access as
22 5 possible to government information as is consistent with the
22 6 public interest and the need to protect individuals against
22 7 undue invasions of personal privacy.

22 8 Sec. 32. NEW SECTION. 23.7 FILING OF COMPLAINTS WITH THE
22 9 BOARD.

22 10 1. The board shall adopt rules with the force of law and
22 11 pursuant to chapter 17A providing for the timing, form,
22 12 content, and means by which any aggrieved person, any taxpayer
22 13 to or citizen of this state, the attorney general, or any
22 14 county attorney may file a complaint with the board alleging a
22 15 violation of chapter 21 or 22. The complaint must be filed
22 16 within sixty days from the time the alleged violation occurred
22 17 or the complainant could have become aware of the violation
22 18 with reasonable diligence.

22 19 2. All board proceedings in response to the filing of a
22 20 complaint shall be conducted as expeditiously as possible.

22 21 3. The board shall not charge a complainant any fee in
22 22 relation to the filing of a complaint, the processing of a
22 23 complaint, or any board proceeding or judicial proceeding
22 24 resulting from the filing of a complaint.

22 25 Sec. 33. NEW SECTION. 23.8 INITIAL PROCESSING OF
22 26 COMPLAINT.

22 27 Upon receipt of a complaint alleging a violation of chapter
22 28 21 or 22, the board shall do either of the following:

22 29 1. Determine that, on its face, the complaint is within
22 30 the board's jurisdiction, appears legally sufficient, and
22 31 could have merit. In such a case the board shall accept the
22 32 complaint, and shall notify the parties of that fact in
22 33 writing.

22 34 2. Determine that, on its face, the complaint is outside
22 35 its jurisdiction, is legally insufficient, is without merit,
23 1 or relates to a specific incident that has previously been
23 2 finally disposed of on its merits by the board or a court. In
23 3 such a case the board shall decline to accept the complaint.
23 4 If the board refuses to accept a complaint, the board shall
23 5 provide the complainant with a written order explaining its
23 6 reasons for the action.

23 7 Sec. 34. NEW SECTION. 23.9 MEDIATION AND SETTLEMENT.

23 8 1. After accepting a complaint, the board shall offer the
23 9 parties an opportunity to resolve the dispute through
23 10 mediation and settlement if the board determines that the
23 11 matter is unlikely to be resolved with the prompt informal

23 12 assistance of a board employee.

23 13 2. The mediation and settlement process shall enable the
23 14 complainant to attempt to resolve the dispute with the aid of
23 15 a neutral mediator employed and selected by the board, in its
23 16 discretion, from either its own staff or an outside source.

23 17 3. Mediation shall be conducted as an informal,
23 18 nonadversarial process and in a manner calculated to help the
23 19 parties reach a mutually acceptable and voluntary settlement
23 20 agreement. The mediator shall assist the parties in
23 21 identifying issues and shall foster joint problem solving and
23 22 the exploration of settlement alternatives.

23 23 Sec. 35. NEW SECTION. 23.10 ENFORCEMENT.

23 24 1. If any party declines mediation or settlement or if
23 25 mediation or settlement fails to resolve the matter to the
23 26 satisfaction of all parties, the board shall initiate a formal
23 27 investigation concerning the facts and circumstances set forth
23 28 in the complaint. The board shall, after an appropriate
23 29 investigation, make a determination as to whether the
23 30 complaint is within the board's jurisdiction and whether there
23 31 is probable cause to believe that the facts and circumstances
23 32 alleged in the complaint constitute a violation of chapter 21
23 33 or 22.

23 34 2. If the board finds the complaint is outside the board's
23 35 jurisdiction or there is no probable cause to believe there
24 1 has been a violation of chapter 21 or 22, the board shall
24 2 issue a written order explaining the reasons for the board's
24 3 conclusions and dismissing the complaint, and shall transmit a
24 4 copy to the complainant and to the party against whom the
24 5 complaint was filed.

24 6 3. a. If the board finds the complaint is within the
24 7 board's jurisdiction and there is probable cause to believe
24 8 there has been a violation of chapter 21 or 22, the board
24 9 shall issue a written order to that effect and shall commence
24 10 a contested case proceeding under chapter 17A against the
24 11 respondent. An attorney selected by the director of the board
24 12 shall prosecute the respondent in the contested case
24 13 proceeding. At the termination of the contested case
24 14 proceeding the board shall, by a majority vote of its members,
24 15 render a final decision as to the merits of the complaint. If
24 16 the board finds that the complaint has merit, the board may
24 17 issue any appropriate order to ensure enforcement of chapter
24 18 21 or 22 including but not limited to an order requiring
24 19 specified action or prohibiting specified action and any
24 20 appropriate order to remedy any failure of the respondent to
24 21 observe any provision of those chapters.

24 22 b. If the board determines, by a majority vote of its
24 23 members, that the respondent has violated chapter 21 or 22,
24 24 the board may also do any or all of the following:

24 25 (1) Require the respondent to pay damages as provided for
24 26 in section 21.6 or 22.10, whichever is applicable, to the
24 27 extent that provision would make such damages payable if the
24 28 complainant had sought to enforce a violation in court instead
24 29 of through the board.

24 30 (2) Void any action taken in violation of chapter 21 if a
24 31 court would be authorized to do so in similar circumstances
24 32 pursuant to section 21.6.

24 33 c. The board shall not have the authority to remove a
24 34 person from public office for a violation of chapter 21 or 22.
24 35 The board may file an action under chapter 21 or 22 to remove
25 1 a person from office for violations that would subject a
25 2 person to removal under those chapters.

25 3 d. A final board order resulting from such proceedings may
25 4 be enforced by the board in court and is subject to judicial
25 5 review pursuant to section 17A.19.

25 6 Sec. 36. NEW SECTION. 23.11 DEFENSES IN A CONTESTED CASE
25 7 PROCEEDING.

25 8 A respondent may defend against a proceeding before the
25 9 board charging a violation of chapter 21 or 22 on the ground
25 10 that if such a violation occurred it was only harmless error
25 11 or that clear and convincing evidence demonstrated that
25 12 grounds existed to justify a court to issue an injunction
25 13 against disclosure pursuant to section 22.8.

25 14 Sec. 37. NEW SECTION. 23.12 JURISDICTION.

25 15 The board shall not have jurisdiction over the judicial or
25 16 legislative branches of state government or any agency,
25 17 officer, or employee of those branches, or over the governor
25 18 or the office of the governor.

25 19 Sec. 38. Section 34A.7A, subsection 4, Code Supplement
25 20 2007, is amended to read as follows:

25 21 4. The amount collected from a wireless service provider
25 22 and deposited in the fund, pursuant to section 22.7,

25 23 subsection 6, information provided by a wireless service
25 24 provider to the program manager consisting of trade secrets,
25 25 pursuant to section 22.7, subsection 3, and other financial or
25 26 commercial operations information provided by a wireless
25 27 service provider to the program manager, shall be ~~kept~~
25 28 ~~confidential an optional public record~~ as provided under
25 29 section 22.7. This subsection does not prohibit the inclusion
25 30 of information in any report providing aggregate amounts and
25 31 information which does not identify numbers of accounts or
25 32 customers, revenues, or expenses attributable to an individual
25 33 wireless communications service provider.

25 34 Sec. 39. Section 68B.32B, subsection 11, Code Supplement
25 35 2007, is amended to read as follows:

26 1 11. A complaint shall be a public record, but some or all
26 2 of the contents may be treated as ~~confidential an optional~~
26 3 ~~public record~~ under section 22.7, subsection 18, to the extent
26 4 necessary under subsection 3 of this section. Information
26 5 informally reported to the board and board staff which results
26 6 in a board-initiated investigation shall be a public record
26 7 but may be treated as ~~confidential information an optional~~
26 8 ~~public record~~ consistent with the provisions of section 22.7,
26 9 subsection 18. If the complainant, the person who provides
26 10 information to the board, or the person who is the subject of
26 11 an investigation publicly discloses the existence of an
26 12 investigation, the board may publicly confirm the existence of
26 13 the disclosed formal complaint or investigation and, in the
26 14 board's discretion, make the complaint or the informal
26 15 referral public, as well as any other documents that were
26 16 issued by the board to any party to the investigation.
26 17 However, investigative materials may be furnished to the
26 18 appropriate law enforcement authorities by the board at any
26 19 time. Upon the commencement of a contested case proceeding by
26 20 the board, all investigative material relating to that
26 21 proceeding shall be made available to the subject of the
26 22 proceeding. The entire record of any contested case
26 23 proceeding initiated under this section shall be a public
26 24 record.

26 25 Sec. 40. Section 76.11, Code 2007, is amended to read as
26 26 follows:

26 27 76.11 CONFIDENTIALITY OF BOND HOLDERS == EXCEPTIONS.
26 28 Records of identity of owners of public bonds or
26 29 obligations maintained as provided in section 76.10 or by the
26 30 issuer of the bonds are ~~confidential optional public records~~
26 31 ~~entitled to protection~~ under section 22.7, subsection 17-
26 32 ~~However, and~~ the issuer of the bonds or a state or federal
26 33 agency may obtain information as necessary.

26 34 Sec. 41. Section 124.553, subsection 3, Code Supplement
26 35 2007, is amended to read as follows:

27 1 3. Information contained in the program and any
27 2 information obtained from it, and information contained in the
27 3 records of requests for information from the program, is
27 4 privileged and strictly confidential information. Such
27 5 information is ~~a confidential an optional~~ public record
27 6 pursuant to section 22.7, and is not subject to discovery,
27 7 subpoena, or other means of legal compulsion for release
27 8 except as provided in this division. Information from the
27 9 program shall not be released, shared with an agency or
27 10 institution, or made public except as provided in this
27 11 division.

27 12 Sec. 42. Section 135.43, subsection 7, paragraphs a and b,
27 13 Code Supplement 2007, are amended to read as follows:

27 14 a. The Iowa department of public health and the department
27 15 of human services shall adopt rules providing for disclosure
27 16 of ~~optional public record~~ information ~~which is confidential~~
27 17 under chapter 22 or any ~~confidential record information under~~
27 18 ~~any~~ other provision of state law, to the review team for
27 19 purposes of performing its child death and child abuse review
27 20 responsibilities.

27 21 b. A person in possession or control of medical,
27 22 investigative, assessment, or other information pertaining to
27 23 a child death and child abuse review shall allow the
27 24 inspection and reproduction of the information by the
27 25 department upon the request of the department, to be used only
27 26 in the administration and for the duties of the Iowa child
27 27 death review team. Except as provided for a report on a child
27 28 fatality by an ad hoc child fatality review committee under
27 29 subsection 4, information and records produced under this
27 30 section which are ~~confidential optional public records~~ under
27 31 section 22.7 and ~~confidential records under~~ chapter 235A, and
27 32 information or records received from the confidential records,
27 33 remain confidential under this section. A person does not

27 34 incur legal liability by reason of releasing information to
27 35 the department as required under and in compliance with this
28 1 section.

28 2 Sec. 43. Section 147A.26, subsection 2, Code 2007, is
28 3 amended to read as follows:

28 4 2. The data collected by and furnished to the department
28 5 pursuant to this section are ~~confidential~~ optional public
28 6 records of the condition, diagnosis, care, or treatment of
28 7 patients or former patients, including outpatients, pursuant
28 8 to section 22.7. The compilations prepared for release or
28 9 dissemination from the data collected are not confidential
28 10 under section 22.7, subsection 2. However, information which
28 11 individually identifies patients shall not be disclosed and
28 12 state and federal law regarding patient confidentiality shall
28 13 apply.

28 14 Sec. 44. Section 202A.2, subsection 3, paragraph b, Code
28 15 2007, is amended to read as follows:

28 16 b. The department, in consultation with the office of
28 17 attorney general, shall designate information in purchase
28 18 reports that reveals the identity of a packer or livestock
28 19 seller as ~~confidential~~ optional public records pursuant to
28 20 section 22.7.

28 21 Sec. 45. Section 232.149, subsection 2, Code 2007, is
28 22 amended to read as follows:

28 23 2. Records and files of a criminal or juvenile justice
28 24 agency concerning a child involved in a delinquent act are
28 25 public records, except that release of criminal history data,
28 26 intelligence data, and law enforcement investigatory files is
28 27 subject to the provisions of section 22.7 and chapter 692, and
28 28 juvenile court social records, as defined in section 232.2,
28 29 subsection 31, shall be deemed ~~confidential~~ optional public
28 30 record criminal identification files under section 22.7,
28 31 subsection 9. The records are subject to sealing under
28 32 section 232.150 unless the juvenile court waives its
28 33 jurisdiction over the child so that the child may be
28 34 prosecuted as an adult for a public offense.

28 35 Sec. 46. Section 252B.24, subsection 3, Code 2007, is
29 1 amended to read as follows:

29 2 3. The records of the state case registry are ~~confidential~~
29 3 optional public records pursuant to chapter 22 and may only be
29 4 disclosed or used as provided in section 252B.9.

29 5 Sec. 47. Section 252G.5, unnumbered paragraph 1, Code
29 6 2007, is amended to read as follows:

29 7 The records of the centralized employee registry are
29 8 confidential records pursuant to ~~sections 22.7 and section~~
29 9 252B.9, and may be accessed only by state agencies as provided
29 10 in this section and section 252B.9. When a state agency
29 11 accesses information in the registry, the agency may use the
29 12 information to update the agency's own records. Access to and
29 13 use of the information contained in the registry shall be
29 14 limited to the following:

29 15 Sec. 48. Section 321.189A, subsection 6, Code 2007, is
29 16 amended to read as follows:

29 17 6. The department shall keep ~~as confidential public~~
29 18 ~~records under section 22.7~~, all records regarding licenses
29 19 issued under this section as optional public records under
29 20 section 22.7.

29 21 Sec. 49. Section 452A.33, subsection 1, paragraph d, Code
29 22 2007, is amended to read as follows:

29 23 d. The information included in a report submitted by a
29 24 retail dealer is deemed to be a trade secret, ~~protected as a~~
29 25 ~~confidential record and is an optional public record~~ pursuant
29 26 to section 22.7.

29 27 Sec. 50. Section 452A.33, subsection 2, paragraph c, Code
29 28 2007, is amended to read as follows:

29 29 c. The report shall not provide information regarding
29 30 motor fuel or biofuel which is sold and dispensed by an
29 31 individual retail dealer or at a particular retail motor fuel
29 32 site. The report shall not include a trade secret ~~protected~~
29 33 ~~as a confidential record pursuant as referred to in~~ section
29 34 22.7.

29 35 Sec. 51. Section 455K.4, subsection 4, Code 2007, is
30 1 amended to read as follows:

30 2 4. Information that is disclosed under subsection 2,
30 3 paragraph "b", is confidential and is not subject to
30 4 disclosure under chapter 22. ~~A governmental entity,~~
30 5 ~~governmental employee, or governmental official who discloses~~
30 6 ~~information in violation of this subsection is subject to the~~
30 7 ~~penalty provided in section 22.6.~~

30 8 Sec. 52. Section 476.74, subsection 4, Code 2007, is
30 9 amended to read as follows:

30 10 4. VERIFIED COPIES REQUIRED. Every public utility shall
30 11 file with the board a verified copy of the contract or
30 12 arrangement referred to in this section, or a verified summary
30 13 of the unwritten contract or arrangement, and also of all the
30 14 contracts and arrangements or a verified summary of the
30 15 unwritten contracts or arrangements, whether written or
30 16 unwritten, entered into prior to July 1, 1989, and in force
30 17 and effect at that time. Any contract or agreement determined
30 18 by the board to be ~~a confidential~~ an optional public record
30 19 pursuant to section 22.7 shall be returned to the public
30 20 utility filing the ~~confidential~~ record within sixty days after
30 21 the contract or agreement is filed.

30 22 Sec. 53. Section 477A.7, subsection 3, paragraph b, Code
30 23 Supplement 2007, is amended to read as follows:

30 24 b. For purposes of this subsection, the number of
30 25 customers of a cable service provider or video service
30 26 provider shall be determined based on the relative number of
30 27 subscribers in that municipality at the end of the prior
30 28 calendar year as reported to the municipality by all incumbent
30 29 cable providers and holders of a certificate of franchise
30 30 authority. Any records showing the number of subscribers
30 31 shall be considered ~~confidential~~ optional public records
30 32 pursuant to section 22.7. The incumbent cable provider shall
30 33 provide to the municipality, on an annual basis, the
30 34 maintenance and support costs of the institutional network,
30 35 subject to an independent audit. A municipality acting under
31 1 this subsection shall notify and present a bill to competitive
31 2 cable service providers or competitive video service providers
31 3 for the amount of such support on an annual basis, beginning
31 4 one year after issuance of the certificate of franchise
31 5 authority. The annual institutional network support shall be
31 6 due and paid by the providers to the municipality in four
31 7 quarterly payments, not later than forty-five days after the
31 8 close of each quarter. The municipality shall reimburse the
31 9 incumbent cable provider for the amounts received from
31 10 competitive cable service providers or competitive video
31 11 service providers.

31 12 Sec. 54. Section 507.14, subsections 1 through 3, 5, and
31 13 6, Code Supplement 2007, are amended to read as follows:

31 14 1. A preliminary report of an examination of a domestic or
31 15 foreign insurer, and all notes, work papers, or other
31 16 documents related to an examination of an insurer are
31 17 ~~confidential~~ optional public records under chapter 22 except
31 18 when sought by the insurer to whom they relate, an insurance
31 19 regulator of another state, or the national association of
31 20 insurance commissioners, and shall be privileged and
31 21 confidential in any judicial or administrative proceeding
31 22 except any of the following:

31 23 a. An action commenced by the commissioner under chapter
31 24 507C.

31 25 b. An administrative proceeding brought by the insurance
31 26 division under chapter 17A.

31 27 c. A judicial review proceeding under chapter 17A brought
31 28 by an insurer to whom the records relate.

31 29 d. An action or proceeding which arises out of the
31 30 criminal provisions of the laws of this state or the United
31 31 States.

31 32 e. An action brought in a shareholders' derivative suit
31 33 against an insurer.

31 34 f. An action brought to recover moneys or to recover upon
31 35 an indemnity bond for embezzlement, misappropriation, or
32 1 misuse of insurer funds.

32 2 2. A report of an examination of a domestic or foreign
32 3 insurer which is preliminary under the rules of the division
32 4 is ~~a confidential~~ an optional public record under chapter 22
32 5 except when sought by the insurer to which the report relates
32 6 or an insurance regulator of another state, and is privileged
32 7 and confidential in any judicial or administrative proceeding.

32 8 3. All work papers, notes, recorded information,
32 9 documents, market conduct annual statements, and copies
32 10 thereof that are produced or obtained by or disclosed to the
32 11 commissioner or any other person in the course of analysis by
32 12 the commissioner of the financial condition or market conduct
32 13 of an insurer are ~~confidential~~ optional public records under
32 14 chapter 22 and shall be privileged and confidential in any
32 15 judicial or administrative proceeding except any of the
32 16 following:

32 17 a. An action commenced by the commissioner under chapter
32 18 507C.

32 19 b. An administrative proceeding brought by the insurance
32 20 division under chapter 17A.

32 21 c. A judicial review proceeding under chapter 17A brought
32 22 by an insurer to whom the records relate.

32 23 d. An action or proceeding which arises out of the
32 24 criminal provisions of the laws of this state or the United
32 25 States.

32 26 5. A financial statement filed by an employer
32 27 self-insuring workers' compensation liability pursuant to
32 28 section 87.11, or the working papers of an examiner or the
32 29 division in connection with calculating appropriate security
32 30 and reserves for the self-insured employer are ~~confidential~~
32 31 optional public records under chapter 22 except when sought by
32 32 the employer to which the financial statement or working
32 33 papers relate or an insurance or workers' compensation
32 34 self-insurance regulator of another state, and are privileged
32 35 and confidential in any judicial or administrative proceeding.

33 1 The financial information of a nonpublicly traded employer
33 2 which self-insures for workers' compensation liability
33 3 pursuant to section 87.11 is protected as proprietary trade
33 4 secrets to the extent consistent with the commissioner's
33 5 duties to oversee the security of self-insured workers'
33 6 compensation liability.

33 7 6. Analysis notes, work papers, or other documents related
33 8 to the analysis of an insurer are ~~confidential~~ optional public
33 9 records under chapter 22.

33 10 Sec. 55. Section 507A.4, subsection 10, paragraph b, Code
33 11 Supplement 2007, is amended to read as follows:

33 12 b. The sponsor of the health benefit plan shall file an
33 13 application for waiver from the provisions of this chapter
33 14 with the commissioner as prescribed by the commissioner and
33 15 shall file periodic statements and information as required by
33 16 the commissioner. The commissioner shall adopt rules pursuant
33 17 to chapter 17A implementing this subsection. All statements
33 18 and information filed with or disclosed to the commissioner
33 19 pursuant to this subsection are ~~confidential~~ optional public
33 20 records pursuant to chapter 22.

33 21 Sec. 56. Section 507E.5, subsection 1, Code 2007, is
33 22 amended to read as follows:

33 23 1. All investigation files, investigation reports, and all
33 24 other investigative information in the possession of the
33 25 bureau are confidential records ~~under chapter 22~~ except as
33 26 specifically provided in this section and are not subject to
33 27 discovery, subpoena, or other means of legal compulsion for
33 28 their release until opened for public inspection by the
33 29 bureau, or upon the consent of the bureau, or until a court of
33 30 competent jurisdiction determines, after notice to the bureau
33 31 and hearing, that the bureau will not be unnecessarily
33 32 hindered in accomplishing the purposes of this chapter by
33 33 their opening for public inspection. However, investigative
33 34 information in the possession of the bureau may be disclosed,
33 35 in the commissioner's discretion, to appropriate licensing
34 1 authorities within this state, another state or the District
34 2 of Columbia, or a territory or country in which a licensee is
34 3 licensed or has applied for a license.

34 4 Sec. 57. Section 515.103, subsection 6, paragraph b, Code
34 5 Supplement 2007, is amended to read as follows:

34 6 b. Information filed with the commissioner of insurance
34 7 pursuant to this subsection shall be considered a confidential
34 8 record and be recognized ~~and protected~~ as a trade secret
34 9 pursuant to section 22.7, subsection 3.

34 10 Sec. 58. Section 523A.204, subsection 3, Code Supplement
34 11 2007, is amended to read as follows:

34 12 3. All records maintained by the commissioner under this
34 13 section shall be ~~confidential~~ optional public records pursuant
34 14 to section 22.7, subsection 58, and shall not be made
34 15 available for inspection or copying except upon the approval
34 16 of the commissioner or the attorney general.

34 17 Sec. 59. Section 523A.502A, subsection 2, Code Supplement
34 18 2007, is amended to read as follows:

34 19 2. All records maintained by the commissioner under this
34 20 section shall be ~~confidential~~ optional public records pursuant
34 21 to section 22.7, subsection 58, and shall not be made
34 22 available for inspection or copying except upon the approval
34 23 of the commissioner or the attorney general.

34 24 Sec. 60. Section 523C.23, subsection 1, paragraph c,
34 25 unnumbered paragraph 1, Code 2007, is amended to read as
34 26 follows:

34 27 Information obtained in the course of an investigation ~~is~~
34 28 ~~confidential~~ shall be treated as an optional public record as
34 29 provided in section 22.7. However, upon a determination that
34 30 disclosure of the information is necessary or appropriate in
34 31 the public interest or for the protection of consumers, the

34 32 commissioner may do any of the following:

34 33 Sec. 61. Section 556.24A, subsection 2, Code Supplement
34 34 2007, is amended to read as follows:

34 35 2. Notwithstanding any other provision of law, any other
35 1 identifying information set forth in any report, record,
35 2 claim, or other document submitted to the treasurer of state
35 3 pursuant to this chapter concerning unclaimed or abandoned
35 4 property ~~is a confidential~~ shall be treated as an optional
35 5 public record as provided in section 22.7 and shall be made
35 6 available for public examination or copying only in the
35 7 discretion of the treasurer.

35 8 Sec. 62. Section 602.6111, subsection 3, Code 2007, is
35 9 amended by striking the subsection and inserting in lieu
35 10 thereof the following:

35 11 3. The supreme court may prescribe rules requiring
35 12 confidentiality of certain categories of material in records
35 13 maintained by the courts that are about and linked to an
35 14 identified or identifiable person and that, if disclosed to
35 15 the general public, would constitute an unwarranted or undue
35 16 invasion of personal privacy or that would present a clear and
35 17 serious danger of facilitating identity theft or other
35 18 criminal activity in relation to that person. For purposes of
35 19 this subsection, "unwarranted or undue invasion of personal
35 20 privacy" means the public disclosure of particular information
35 21 about and linked to an identified or identifiable person that
35 22 is likely to subject such person to potential harm of such
35 23 person's personal privacy interests or personal security
35 24 interests that clearly outweighs any potential benefit to the
35 25 public interest from disclosure of such information. The
35 26 rules prescribed pursuant to this subsection may specify the
35 27 manner and format in which such confidential information is to
35 28 be provided to a clerk of court, authorize the degree and
35 29 nature of the disclosure of such confidential information to
35 30 specified classes of persons, and indicate the manner and
35 31 format in which such confidential information is stored and
35 32 disclosed to appropriate persons by the clerk of court. Rules
35 33 prescribed by the supreme court pursuant to this subsection
35 34 shall prevail over any other conflicting state laws and
35 35 administrative rules.

36 1 Sec. 63. Section 692.8A, subsection 4, Code Supplement
36 2 2007, is amended to read as follows:

36 3 4. An intelligence assessment and intelligence data shall
36 4 be deemed ~~a confidential~~ an optional public record of the
36 5 department under section 22.7, subsection 55, except as
36 6 otherwise provided in this subsection. This section shall not
36 7 be construed to prohibit the dissemination of an intelligence
36 8 assessment to any agency or organization if necessary for
36 9 carrying out the official duties of the agency or
36 10 organization, or to a person if disseminated for an official
36 11 purpose, and to a person if necessary to protect a person or
36 12 property from a threat of imminent serious harm. This section
36 13 shall also not be construed to prohibit the department from
36 14 disseminating a public health and safety threat advisory or
36 15 alert by press release or other method of public
36 16 communication.

36 17 Sec. 64. Section 692A.13, subsection 8, Code 2007, is
36 18 amended to read as follows:

36 19 8. Sex offender registry records are ~~confidential~~ optional
36 20 public records pursuant to section 22.7 and shall only be
36 21 released as provided in this section.

36 22 Sec. 65. Section 708.2B, unnumbered paragraph 2, Code
36 23 2007, is amended to read as follows:

36 24 District departments or contract service providers shall
36 25 receive upon request peace officers' investigative reports
36 26 regarding persons participating in programs under this
36 27 section. The receipt of reports under this section shall not
36 28 waive the confidentiality of the reports ~~under section 22.7.~~

36 29 Sec. 66. Section 716.6B, subsection 1, paragraph a, Code
36 30 2007, is amended to read as follows:

36 31 a. An aggravated misdemeanor if computer data is accessed
36 32 that contains ~~a confidential~~ an optional public record, as
36 33 defined in section 22.7, operational or support data of a
36 34 public utility, as defined in section 476.1, operational or
36 35 support data of a rural water district incorporated pursuant
37 1 to chapter 357A or 504, operational or support data of a
37 2 municipal utility organized pursuant to chapter 388 or 389,
37 3 operational or support data of a public airport, or a trade
37 4 secret, as defined in section 550.2.

37 5 Sec. 67. Section 907.4, Code 2007, is amended to read as
37 6 follows:

37 7 907.4 DEFERRED JUDGMENT DOCKET.

37 8 A deferment of judgment under section 907.3 shall be
37 9 entered promptly by the clerk of the district court, or the
37 10 clerk's designee, into the deferred judgment database of the
37 11 state, which shall serve as the deferred judgment docket. The
37 12 docket shall contain a permanent record of the deferred
37 13 judgment including the name and date of birth of the
37 14 defendant, the district court docket number, the nature of the
37 15 offense, and the date of the deferred judgment. Before
37 16 granting deferred judgment in any case, the court shall search
37 17 the deferred judgment docket and shall consider any prior
37 18 record of a deferred judgment against the defendant. The
37 19 permanent record provided for in this section is a

~~37 20 confidential~~ an optional public record exempted from public
37 21 access under section 22.7 and shall be available only to
37 22 justices of the supreme court, judges of the court of appeals,
37 23 district judges, district associate judges, judicial
37 24 magistrates, clerks of the district court, judicial district
37 25 departments of correctional services, county attorneys, and
37 26 the department of corrections requesting information pursuant
37 27 to this section, or the designee of a justice, judge,
37 28 magistrate, clerk, judicial district department of
37 29 correctional services, or county attorney, or department.

37 30 Sec. 68. Section 915.90, unnumbered paragraph 1, Code
37 31 2007, is amended to read as follows:

37 32 A person in possession or control of investigative or other
37 33 information pertaining to an alleged crime or a victim filing
37 34 for compensation shall allow the inspection and reproduction
37 35 of the information by the department upon the request of the
38 1 department, to be used only in the administration and
38 2 enforcement of the crime victim compensation program.

38 3 Information and records which are ~~confidential~~ optional public
38 4 records under section 22.7 and information or records received
38 5 from the ~~confidential~~ such information or records remain
38 6 confidential under this section.

38 7 Sec. 69. Section 22.6, Code 2007, is repealed.

38 8 Sec. 70. EFFECTIVE DATE. This Act takes effect July 1,
38 9 2009.

38 10 EXPLANATION

38 11 This bill relates to Iowa's Open Meetings Law (Code chapter
38 12 21) and Iowa's Open Records Law (Code chapter 22).

38 13 DEFINITION OF MEETING. The bill expands the definition of
38 14 "meeting" to include the calculated use of a series of
38 15 communications, each between less than a majority of the
38 16 members of a governmental body or their personal
38 17 intermediaries that is intended to reach and does in fact
38 18 reach a majority of the members and that is intended to
38 19 discuss and develop a collective final decision of a majority
38 20 outside of a meeting with respect to specific action to be
38 21 taken by the majority at a meeting. The bill specifies that a
38 22 "meeting" does not include written electronic communications
38 23 by one or more members of a governmental body or by its chief
38 24 executive officer that are ordinarily preserved and are
38 25 accessible and that are sent to a majority of the members of
38 26 the governmental body, or a series of such written electronic
38 27 communications each sent only to a minority of the members of
38 28 the governmental body but that in the aggregate are sent to a
38 29 majority of the members, that both concern a particular matter
38 30 within the scope of the governmental body's policymaking
38 31 duties and would otherwise constitute a meeting, if the
38 32 written electronic communications, to the extent such
38 33 communications are not exempt from disclosure, are either
38 34 posted on the governmental body's internet site or public
38 35 bulletin board or copies are made available for public
39 1 inspection at the governmental body's next meeting.

39 2 RECONVENED MEETINGS. The bill provides that except as
39 3 otherwise provided, a reconvened meeting of a governmental
39 4 body is also subject to the meeting notice requirements
39 5 pursuant to Code section 21.4. This requirement does not
39 6 apply to a meeting of a governmental body that is reconvened
39 7 within four hours of the start of its recess, where an
39 8 announcement of the time, date, and place of the reconvened
39 9 meeting is made at the original meeting in open session and
39 10 recorded in the minutes of the meeting and there is no change
39 11 in the agenda. The notice requirement also does not apply to
39 12 a meeting held by a formally constituted subunit of a parent
39 13 governmental body during a lawful meeting of the parent
39 14 governmental body or during a recess in that meeting of up to
39 15 four hours, or a meeting of that subunit immediately following
39 16 the meeting of the parent governmental body, if the meeting of
39 17 the subunit is publicly announced in open session at the
39 18 parent meeting and the subject of the meeting reasonably

39 19 coincides with the subjects discussed or acted upon by the
39 20 parent governmental body.

39 21 CIVIL AND CRIMINAL PENALTY PROVISIONS. The bill increases
39 22 the civil penalty damage amounts for violations of the open
39 23 meetings and public records laws for each member of the
39 24 governmental body or each person who participated in the
39 25 violation from not less than \$100 and not more than \$500 to
39 26 not less than \$1,000 and not more than \$2,500 subject to the
39 27 existing defenses contained in Code sections 21.6 and 22.10.

39 28 The bill repeals the criminal penalty provision for knowing
39 29 violations or attempts to violate any provisions of the public
39 30 records law.

39 31 RECORDS DEFINITIONS. The bill amends the terms used to
39 32 identify records and different classes of records under the
39 33 public records law.

39 34 The bill defines a "record" under Code chapter 22 to mean
39 35 information of every kind, nature, and form preserved or
40 1 stored in any medium including but not limited to paper,
40 2 electronic media, or film media. The bill also designates the
40 3 following categories of records in Code chapter 22:

40 4 1. "Government record" means a record owned by, created
40 5 by, in the possession of, or under the control of, any unit,
40 6 division, or part of state or local government or the
40 7 officials or employees of such bodies in the course of the
40 8 performance of their respective duties.

40 9 2. "Public record" means a government record which a
40 10 member of the public has an unqualified right to examine and
40 11 copy and includes a government record not designated by
40 12 statute as either a confidential record or an optional public
40 13 record.

40 14 3. "Confidential record" means a government record
40 15 designated by statute as unavailable for examination and
40 16 copying by a member of the public.

40 17 4. "Optional public record" means a government record
40 18 designated by statute as unavailable for examination and
40 19 copying by a member of the public unless otherwise ordered by
40 20 a court, by the lawful custodian of the records, or by another
40 21 person duly authorized to release such information.

40 22 The bill makes conforming changes throughout the Code based
40 23 upon the new identification terms for various classes of
40 24 records established in the bill for Code chapter 22. The
40 25 conforming terminology changes provide for a continuation of
40 26 the current public disclosure status of records. Additional
40 27 conforming changes to these and other Code provisions may be
40 28 necessary to fully implement the new identification terms for
40 29 various classes of records established by the bill.

40 30 RECORDS ACCESS == GOVERNMENT BODY CONTRACTS WITH
40 31 NONGOVERNMENT BODY. Current law provides that a government
40 32 body may not avoid application of the public records law by
40 33 contracting out any of its functions to a nongovernment person
40 34 or entity. The bill provides that a record created by, in the
40 35 possession of, or under the control of, any nongovernment body
41 1 or person which is a direct part of the execution or
41 2 performance of duties imposed upon the nongovernment body or
41 3 person by contract with a government body under which the
41 4 nongovernment body or person performs a function of the
41 5 government body is a government record. The lawful custodian
41 6 of such a government record is the government body with whom
41 7 the nongovernment body or person has executed the contract.
41 8 Consistent with this change, the bill makes a conforming
41 9 amendment relating to records involving charitable donations
41 10 and specifies that, unless otherwise provided, the lawful
41 11 custodian of all records relating to the receipt, holding, and
41 12 disbursement of gifts made for the benefit of regents
41 13 institutions and made through foundations established for the
41 14 support of regents institutions is the regents institution to
41 15 be benefited by such gifts.

41 16 RECORDS REQUESTS == TIME LIMITS. The bill provides that
41 17 upon receipt of an oral or written request to examine or copy
41 18 a public record, the lawful custodian shall, if feasible in
41 19 the ordinary course of business, permit such examination or
41 20 copying at the time of the request. If it is not feasible in
41 21 the ordinary course of business to permit examination or
41 22 copying of the public record at the time of the request, the
41 23 lawful custodian shall immediately notify the requester,
41 24 orally or in writing, when such examination or copying may
41 25 take place which shall be no later than five business days
41 26 from the time of the request unless there is good cause for
41 27 further delay. If further delay is necessary because of good
41 28 cause, the lawful custodian shall provide the requester with a
41 29 written statement detailing the reason or reasons for the

41 30 delay and the date by which the request will be satisfied. If
41 31 the lawful custodian is in doubt as to whether the record
41 32 requested is a public record or whether the requester should
41 33 be permitted to examine or copy a record specified in Code
41 34 section 22.7, the lawful custodian shall make that
41 35 determination within 10 business days from the date of the
42 1 request. Examination or copying of the record must be allowed
42 2 within five business days from the date the lawful custodian
42 3 makes the decision to permit examination or copying of the
42 4 record. If the lawful custodian denies a request to examine
42 5 or copy a record, the custodian must provide the requester at
42 6 the time of the denial a written statement denying the request
42 7 and detailing the specific reason or reasons for the denial.
42 8 If the lawful custodian does not fulfill a request to examine
42 9 or copy a public record within the time frames prescribed, the
42 10 request shall be deemed denied and the requester shall be
42 11 entitled to file a complaint with the Iowa public information
42 12 board created in Code section 23.7 or may file a lawsuit
42 13 against the lawful custodian pursuant to Code section 22.10.

42 14 PERSONAL INFORMATION IN CONFIDENTIAL PERSONNEL RECORDS.
42 15 Current law provides that personal information in confidential
42 16 personnel records of government bodies shall be confidential,
42 17 unless otherwise ordered by a court, by the lawful custodian,
42 18 or by another duly authorized person to release such
42 19 information. The bill specifies that the name and
42 20 compensation of the individual, the date the individual was
42 21 employed by the government body, the positions the individual
42 22 holds or has held with the government body, the individual's
42 23 qualifications for the position that the individual holds or
42 24 has held including but not limited to educational background
42 25 and work experience, and any final disciplinary action taken
42 26 against the individual that resulted in the individual's
42 27 discharge, suspension, demotion, or loss of pay shall be
42 28 public records.

42 29 LIBRARY RECORDS. Current law provides that library records
42 30 which, by themselves or when examined with other public
42 31 records, would reveal the identity of the library patron
42 32 checking out or requesting an item or information from the
42 33 library are confidential unless otherwise ordered by a court,
42 34 by the lawful custodian, or by another duly authorized person
42 35 to release such information and the records shall be released
43 1 to a criminal or juvenile justice agency only pursuant to an
43 2 investigation of a particular person or organization suspected
43 3 of committing a known crime. The bill provides that this
43 4 provision shall not be construed to prohibit a library from
43 5 disclosing to an identified parent or guardian information
43 6 regarding the items borrowed or requested by an identified
43 7 library patron who is the minor child of the parent or
43 8 guardian.

43 9 ADDITIONAL OPTIONAL PUBLIC RECORDS DESIGNATIONS. The bill
43 10 provides that the following records shall be confidential
43 11 unless otherwise ordered by a court, by the lawful custodian,
43 12 or by another duly authorized person:

43 13 1. PUBLIC EMPLOYMENT APPLICATIONS. The identity and
43 14 qualifications of an applicant for employment by a government
43 15 body if the applicant requests anonymity in writing and the
43 16 government body determines that anonymity is necessary to
43 17 induce the applicant to apply for the public employment
43 18 position shall be confidential. Such information shall be
43 19 exempt from disclosure until an applicant is considered by the
43 20 government body to be a finalist for a position in public
43 21 employment. "Finalist" means a person who is one of five or
43 22 fewer applicants under final consideration for a public
43 23 employment position. If there are five or fewer applicants
43 24 for the particular position, all of the applicants shall be
43 25 considered finalists. The identities and qualifications of
43 26 the finalists shall be made available for public inspection at
43 27 least three business days prior to the final decision.
43 28 Documents relating to a government body's evaluation of the
43 29 qualifications and merits of an applicant for employment by a
43 30 government body are also confidential records unless otherwise
43 31 released by the appropriate person.

43 32 2. MATERIAL INVADING PERSONAL PRIVACY. Material about and
43 33 linked to an identified or identifiable person that, if
43 34 disclosed to the general public, would constitute an
43 35 unwarranted or undue invasion of personal privacy or that
44 1 would present a clear and serious danger of facilitating
44 2 identity theft or other criminal activity in relation to that
44 3 person are confidential unless otherwise ordered by the
44 4 appropriate official. "Unwarranted or undue invasion of
44 5 personal privacy" means the public disclosure of particular

44 6 information about and linked to an identified or identifiable
44 7 person that is likely to subject such person to potential harm
44 8 of such person's personal privacy interests or personal
44 9 security interests that clearly outweighs any potential
44 10 benefit to the public interest from disclosure of such
44 11 information. Material about and linked to an identified or
44 12 identifiable person excluded from public inspection by the
44 13 bill includes but is not limited to social security numbers,
44 14 driver's license numbers, credit card and bank account
44 15 numbers, and personal financial data other than the salary of
44 16 a public official or a public employee and any financial
44 17 statements required to be filed by a public official or public
44 18 employee to avoid a conflict of interest. Material exempted
44 19 from public disclosure does not include information about and
44 20 linked to an identified or identifiable person released by the
44 21 lawful custodian with the person's written consent or
44 22 information relating to the performance of duties by a public
44 23 official or public employee.

44 24 3. TENTATIVE, PRELIMINARY, OR DRAFT MATERIALS. Tentative,
44 25 preliminary, draft, speculative, or research material, created
44 26 prior to its final completion for the purpose for which it is
44 27 intended and in a form prior to the form in which it is
44 28 submitted for use in the final formulation, recommendation,
44 29 adoption, or execution of any official policy or action by a
44 30 public official authorized to make such decisions for the
44 31 government body, are confidential unless ordered otherwise by
44 32 the appropriate official. Such materials shall be treated as
44 33 public record at the time they are actually used as the basis
44 34 for the final formulation, recommendation, adoption, or
44 35 execution of any official policy or action of a government
45 1 body.

45 2 4. CLOSED SESSION RECORDS. Records containing information
45 3 that would permit a governmental body subject to Code chapter
45 4 21 to hold a closed session pursuant to Code section 21.5 in
45 5 order to avoid public disclosure of that information.

45 6 INJUNCTION RESTRAINING EXAMINATION OF PUBLIC RECORDS.

45 7 Current law provides that, under specified circumstances, a
45 8 district court may grant an injunction restraining the
45 9 examination, including copying, of a specific public record or
45 10 a narrowly drawn class of public records. Such an injunction
45 11 may be issued only if the petition supported by affidavit
45 12 shows and if the court finds that the examination would
45 13 clearly not be in the public interest and that the examination
45 14 would substantially and irreparably injure any person or
45 15 persons. The bill amends this provision to provide that the
45 16 district court may grant an injunction upon a finding that the
45 17 examination would clearly not be in the public interest
45 18 because the potential harm to the public interest from
45 19 disclosure of the particular information involved clearly
45 20 outweighs any potential benefit to the public interest from
45 21 disclosure, or that the examination would substantially and
45 22 irreparably injure any person or persons because it would
45 23 invade the personal privacy of the identified subject of the
45 24 record and the harm to that person from such disclosure is not
45 25 outweighed by the public interest in its disclosure, or that
45 26 the record at issue is not a public record or that a
45 27 determination by the custodian to permit inspection of an
45 28 optional public record by one or more members of the public is
45 29 a violation of law or is arbitrary, capricious, unreasonable,
45 30 or an abuse of discretion.

45 31 SETTLEMENT AGREEMENTS. Code chapter 22 currently provides
45 32 that a written summary of the terms of settlement or other
45 33 disposition of any claim for damages made against any
45 34 government body or against an employee, officer, or agent of a
45 35 government body, by an insurer pursuant to a contract of
46 1 liability insurance issued to the governmental body, shall be
46 2 filed with the governmental body and shall be a public record.
46 3 The bill provides that all final binding settlement agreements
46 4 between any agency of this state or other unit or official of
46 5 such a government body that resolves a legal dispute between
46 6 such a government body and another person or entity shall
46 7 include a brief summary indicating the identity of the parties
46 8 involved, the nature of the dispute, any underlying relevant
46 9 facts that are agreed to by the parties and that are disputed
46 10 by the parties, and the terms of the settlement, and shall be
46 11 filed with the government body and shall be available for
46 12 public inspection.

46 13 IOWA PUBLIC INFORMATION BOARD. The bill creates the Iowa
46 14 public information board to provide an alternative means by
46 15 which to secure compliance with and enforcement of the
46 16 requirements of Code chapters 21 and 22, to consist of five

46 17 members appointed by the governor, subject to confirmation by
46 18 the senate, to serve four-year staggered terms. The board
46 19 shall be balanced as to political affiliation and gender.
46 20 Vacancies on the board shall be filled by the governor by
46 21 appointment for the unexpired part of the term of the vacancy.
46 22 Any board member may be removed from office by the governor
46 23 for good cause. The board shall select one of its members to
46 24 serve as chair and shall hire a director who shall serve as
46 25 the executive officer of the board. Board members shall be
46 26 paid a per diem and shall be reimbursed for actual and
46 27 necessary expenses incurred while on official board business.
46 28 All per diem and expense moneys paid to board members shall be
46 29 paid from funds appropriated to the board. The board shall
46 30 not have jurisdiction over the judicial or legislative
46 31 branches of state government or any agency, officer, or
46 32 employee of those branches, or over the governor or the office
46 33 of the governor, but the bill does not alter the current
46 34 applicability of Code chapter 22 and the enforcement
46 35 mechanisms provided in Code chapter 22 to any of those bodies.

47 1 The bill provides that any aggrieved person, any taxpayer
47 2 to or citizen of the state of Iowa, the attorney general, or
47 3 any county attorney, may seek enforcement of the requirements
47 4 of Code chapters 21 and 22 by electing either to file an
47 5 action pursuant to Code section 17A.19, 21.6, or 22.9,
47 6 whichever is applicable, or in the alternative, to file a
47 7 timely complaint with the board. If more than one person
47 8 seeks enforcement of Code chapter 21 or 22 with respect to the
47 9 same incident involving an alleged violation, and one or more
47 10 of such persons elects to do so by filing an action under Code
47 11 section 17A.19, 21.6, or 22.9, and one or more of such persons
47 12 elects to do so by filing a timely complaint with the board,
47 13 the court in which the action was filed shall dismiss the
47 14 action without prejudice authorizing the complainant to file a
47 15 complaint with respect to that same incident with the board
47 16 without regard to the timeliness of the filing of that
47 17 complaint at the time the action in court is dismissed. If a
47 18 government body files an action seeking to enjoin the
47 19 inspection of a public record, the respondent may remove the
47 20 proceeding to the board for its determination by filing,
47 21 within 30 days of the commencement of that judicial
47 22 proceeding, a complaint with the board alleging a violation of
47 23 Code chapter 22 in regard to the same matter.

47 24 The bill provides that the board shall have the authority
47 25 to employ such employees as are necessary to execute its
47 26 authority, adopt rules with the force of law, interpret the
47 27 requirements of Code chapters 21 and 22, implement any
47 28 authority delegated to the board, issue declaratory orders
47 29 with the force of law, receive complaints alleging violations
47 30 of Code chapter 21 or 22, seek resolution of such complaints
47 31 through mediation and settlement, formally investigate such
47 32 complaints, decide after such an investigation whether there
47 33 is probable cause to believe a violation of Code chapter 21 or
47 34 22 has occurred, and if probable cause has been found,
47 35 prosecute the respondent before the board in a contested case
48 1 proceeding conducted according to the provisions of Code
48 2 chapter 17A. The board shall also have the authority to issue
48 3 subpoenas enforceable in court, issue orders with the force of
48 4 law, represent itself in judicial proceedings, make training
48 5 opportunities available, disseminate information to inform the
48 6 public about the public's right to access government
48 7 information, prepare and transmit reports to the governor and
48 8 the general assembly, at least annually, describing complaints
48 9 received, board proceedings, investigations, hearings
48 10 conducted, decisions rendered, and other work performed by the
48 11 board, and make recommendations to the general assembly
48 12 concerning legislation relating to public information access.

48 13 The bill provides that a complaint must be filed within 60
48 14 days from the time the alleged violation occurred or the
48 15 complainant could have become aware of the violation with
48 16 reasonable diligence. The board shall not charge a
48 17 complainant any fee in relation to the filing of a complaint,
48 18 the processing of a complaint, or any board proceeding or
48 19 judicial proceeding resulting from the filing of a complaint.

48 20 The bill provides that upon receipt of a complaint, the
48 21 board shall either make a determination that, on its face, the
48 22 complaint is within the board's jurisdiction, appears legally
48 23 sufficient, and could have merit, in which case the board
48 24 shall accept the complaint, or make a determination that, on
48 25 its face, the complaint is outside the board's jurisdiction,
48 26 is legally insufficient, is without merit, or relates to a
48 27 specific incident that has previously been finally disposed of

48 28 on its merits by the board or a court, in which case the board
48 29 shall decline to accept the complaint. If the board declines
48 30 to accept the complaint, the board shall provide the
48 31 complainant with a written statement detailing the reasons for
48 32 the denial.

48 33 After accepting a complaint, the board shall offer the
48 34 parties the opportunity to resolve the dispute through
48 35 mediation and settlement which shall provide the complainant
49 1 the opportunity to resolve the dispute with the aid of a
49 2 neutral mediator employed and selected by the board.

49 3 If any party declines mediation or settlement or if
49 4 mediation or settlement fails to resolve the matter to the
49 5 satisfaction of all parties, the board shall initiate a formal
49 6 investigation concerning the facts and circumstances set forth
49 7 in the complaint. After investigation, the board shall make a
49 8 determination as to whether the complaint is within the
49 9 board's jurisdiction and whether there is probable cause to
49 10 believe that the complaint states a violation of Code chapter
49 11 21 or 22 and if the board finds the complaint is outside the
49 12 board's jurisdiction or there is not probable cause to believe
49 13 there has been a violation, the board shall issue a written
49 14 order explaining the reasons for the board's conclusions and
49 15 dismissing the complaint. If the board finds the complaint is
49 16 within the board's jurisdiction and there is probable cause to
49 17 believe there has been a violation, the board shall issue a
49 18 written order to that effect and shall commence a contested
49 19 case proceeding against the respondent. An attorney selected
49 20 by the director of the board shall prosecute the respondent in
49 21 the contested case proceeding. At the termination of the
49 22 contested case proceeding the board shall, by a majority vote
49 23 of its members, render a final decision as to the merits of
49 24 the complaint and issue any appropriate order to ensure
49 25 enforcement of Code chapter 21 or 22 or to remedy any failure
49 26 of the respondent to observe any provision of those Code
49 27 chapters. If the board determines, by a majority vote of its
49 28 members, that the respondent has violated Code chapter 21 or
49 29 22, the board may also require the respondent to pay damages
49 30 if such damages would be warranted under either Code chapter
49 31 and may void any action taken in violation of Code chapter 21.
49 32 The board does not have the authority to remove a person from
49 33 public office for a violation of Code chapter 21 or 22 but may
49 34 file an action under either Code chapter to remove a person
49 35 from office for violations that would subject a person to
50 1 removal under those Code chapters. A final board order
50 2 resulting from such proceedings may be enforced by the board
50 3 in court and is subject to judicial review pursuant to Code
50 4 section 17A.19.

50 5 A respondent may defend against a proceeding before the
50 6 board charging a violation of Code chapter 21 or 22 on the
50 7 ground that if such a violation occurred it was only harmless
50 8 error or that clear and convincing evidence demonstrated that
50 9 grounds existed to justify a court to issue an injunction
50 10 against disclosure.

50 11 COURT RULES. The bill provides that the Iowa supreme court
50 12 may issue rules requiring confidentiality of certain
50 13 categories of material in records maintained by the courts
50 14 that are about and linked to an identified or identifiable
50 15 person and that if disclosed to the general public would
50 16 constitute an unwarranted or undue invasion of personal
50 17 privacy or that would present a clear and serious danger of
50 18 facilitating identity theft or other criminal activity in
50 19 relation to that person.

50 20 EFFECTIVE DATE. The bill takes effect July 1, 2009.

50 21 LSB 5233IC 82

50 22 rh/rj/14.2